

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**ROBERT WADE PLUMIER, as Son and
Personal Representative of the Wrongful Death
Beneficiaries of ROBERT WAYNE PLUMIER,
Deceased, and Estate of Robert Wayne Plumier,
Deceased**

PLAINTIFFS

v.

CIVIL ACTION NO. 1:18CV13-HSO-JCG

MISSISSIPPI DEPARTMENT OF CORRECTIONS, ET AL.

DEFENDANTS

**REPLY TO RESPONSE TO MOTION TO DISMISS BASED ON ELEVENTH
AMENDMENT IMMUNITY, STATE LAW IMMUNITY AND QUALIFIED IMMUNITY**

COME NOW, Defendants, Mississippi Department of Corrections (“MDOC”), South Mississippi Correctional Institution (“SMCI”), Jacquelyn Banks, Superintendent of SMCI, in her individual and official capacity, Marshall Turner, Warden at SMCI, in his individual and official capacity, and Brenda Sims, Warden at SMCI, in her individual and official capacity, and submit for filing and the Court’s consideration, this their Reply to Response to Motion to Dismiss Based on Eleventh Amendment Immunity, State Law Immunity and Qualified Immunity and in support thereof, would show unto the Court as follows:

1. Plaintiffs’ First Amended Complaint alleges, pursuant to 42 U.S.C. §1983, that Robert Wayne Plumier, a post-conviction inmate in the custody of the Mississippi Department of Corrections, was denied medical care while housed at the South Mississippi Correctional Institution in Leakesville, Greene County, Mississippi in violation of the Eighth and Fourteenth Amendments to the United States Constitution [4].

2. On February 22, 2018, Defendants filed their Motion to Dismiss Based on Eleventh

Amendment Immunity, State Law Immunity and Qualified Immunity [35] and the Court entered an Order Staying Proceedings pending a ruling on the motion [37].

3. Plaintiff filed his Response in Opposition and Memorandum in Support on March 8, 2018 [42, 43].

4. As set forth more fully in Defendants' Memorandum in Support, Plaintiffs' Response and Memorandum in Support offer no sufficient reason to deny Defendants' motion and these Defendants are entitled to dismissal with prejudice.

WHEREFORE, PREMISES CONSIDERED, Defendants, MDOC, SMCI, Jacquelyn Banks, Marshall Turner and Brenda Sims, respectfully request that the Court grant their Motion to Dismiss and dismiss all claims against them with prejudice. Defendants pray for such other general relief that the Court deems appropriate.

Respectfully submitted this the 14th day of March, 2018.

**MDOC, SMCI, JACQUELYN BANKS,
MARSHALL TURNER AND BRENDA SIMS,
DEFENDANTS**

**JIM HOOD, ATTORNEY GENERAL
STATE OF MISSISSIPPI**

TOMMY D. GOODWIN
SPECIAL ASSISTANT ATTORNEY GENERAL
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BY: s/Tommy D. Goodwin
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CERTIFICATE OF SERVICE

I, Tommy D. Goodwin, Special Assistant Attorney General of the State of Mississippi, do hereby certify that I have electronically filed the foregoing with the Clerk of the Court using the ECF system which served a copy on all counsel of record.

This, the 14th day of March, 2018.

s/Tommy D. Goodwin
Tommy D. Goodwin